Application No. 10/553,721
Reply to Advisory Action of February 27, 2009
and the Office Action dated December 10, 2008

REMARKS

Favorable reconsideration of this application, in view of the present amendments and in light of the following discussion, is respectfully requested.

Claims 1-37 are pending. Claims 1, 34 and 36-37 are amended. No new matter is introduced.

In the Office Action of December 10, 2008, Claim 24 was objected to; Claims 12 and 13 were rejected under 35 U.S.C. § 112, second paragraph; Claims 1-16, 19, 26 and 32-35 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Logston (PCT International Publication No. WO 01/77815 A2, hereafter "Logston") in view of Piskiel (PCT International Publication No. WO 97/46939, hereafter "Piskiel"); Claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Logston and Piskiel in further view of Hutcheson (U.S. Patent No. 6,947,761, hereafter "Hutcheson"); Claim 18 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Logston and Piskiel in further view of Suarez (U.S. Patent No. 5,790,789); Claims 20-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Logston and Piskiel in further view of De Mendonca (U.S. Patent Application Publication No. 2004/0172453, hereafter "De Mendonca"); Claims 27 and 28 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Logston and Piskiel in further view of Guruprasad (U.S. Patent No. 6,802,068); Claim 29 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Logston, Piskiel and Guruprasad in further view of Iyer (U.S. Patent Application Publication No. 2004/0203749, hereafter "Iyer"); Claim 30 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Logston and Piskiel in further view of Podgorny (U.S. Patent No. 6,078,948, hereafter "Podgorny"); and Claims 31, 36 and 37 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Logston and Piskiel in further view of Vange (U.S. Patent No. 7,020,783, hereafter "Vange").

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Regarding to the objection to Claim 24, it is submitted that antecedent basis for "the wireless terminal" can be found in Claim 16, from which Claim 24 depends. Therefore, it is respectfully submitted that the objection to Claim 24 be withdrawn.

Further, Claims 12 and 13 have been amended to adopt the Examiner's suggestions in a previous response. Therefore, it is respectfully requested that the rejection of Claims 12 and 13 under 35 U.S.C. § 112, second paragraph, be withdrawn.

With respect to the rejection of Claims 1-16, 19, 26 and 32-35 as being unpatentable over Logston in view Piskiel, Claim 1 recites *inter alia*, a data access, replication or communications system that includes:

> a terminal including an electronic memory storing a terminal-side executable and a processor provided to execute the terminal-side executable to enable communication therewith independent of a session-based protocol, *the terminal-side executable dividing a message into a plurality of packets, each packet having a size corresponding to a transport protocol payload size*; and
> a server including an electronic memory storing a server-side executable and a processor provided to execute the server-side executable to enable communication therewith independent of a session-based protocol, *the server-side executable dividing a message into a plurality of packets, each packet having a size corresponding to a transport protocol payload size*...(Emphasis added).

The applied reference, Logston, describes a method and apparatus for determining and characterizing resource capabilities of client devices in a distributed application network. Logston describes a distributed application as a computer program divided into multiple components, such as a Distributed Application Client Portion (DACP) and a Distributed Application Server Portion (DASP),[1] which communicate with each other via a network.[2] However, as acknowledged by the outstanding Office Action, Logston does not describe

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[1] Logston at page 1, lines 30-35.
[2] Logston at page 10, lines 13-35.

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enabling communication over the network independent of a session-based protocol.[3] To

remedy this deficiency in <u>Logston</u>, the outstanding Office Action combines <u>Logston</u> with

<u>Piskiel</u>.

<u>Piskiel</u> describes a balanced queue system for rapid and reliable transmission and

reception of transaction messages in a distributed computing transaction processing

environment.[4] <u>Piskiel</u> illustrates that an originating node (200) includes a sending queue

(214) to store messages transmitted to until a receiving node (220) until the receiving node

(220) acknowledges receipt of the transmitted message.[5] <u>Piskiel</u> also illustrates that the

receiving node (220) includes a receiving queue (234) to store received messages at a same

relative location with sending queue (214) of the originating node (200).[6] Messages are

communicated between the originating node (200) and the receiving node (220) via a

communication link level (210), such as TCP/IP or Novell Netware functions on LAN or

WAN networks.[7]

However, <u>Piskiel</u> does not describe dividing a message into a plurality of packets

where each packet has a size corresponding to a transport protocol payload size, as recited in

amended Claim 1. In fact, <u>Piskiel</u> is silent on message packet size versus the payload size

supported by protocols used in the communication link level (210). Therefore, <u>Piskiel</u> fails

to disclose the claimed terminal-side and server-side executables, and no combination of

<u>Logston</u> and <u>Piskiel</u> describes every feature recited in amended Claim 1. As such, amended

Claim 1, together with its corresponding dependent claims, is believed to be in condition for

allowance.

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[3] See the outstanding Office Action at page 4, item 32.
[4] <u>Piskiel</u> at page 4, lines 10-20.
[5] <u>Piskiel</u> at page 15, lines 5-15; see also Fig. 2.
[6] <u>Piskiel</u> at page 16, lines 7-20; see also Fig. 2.
[7] <u>Piskiel</u> at page 15, lines 1-11.

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Moreover, amended Claim 34 recited features substantially similar to those recited in amended Claim 1 and is therefore in condition for allowance, together with its corresponding dependent claims, for substantially the same reasons. Accordingly, it is respectfully requested that the rejection of Claims 1-16, 19, 26 and 32-35 under 35 U.S.C. § 103(a) be withdrawn.

As all other rejections of record rely upon the combination of Logston and Piskiel for describing the above-distinguished features, and the above-distinguished features are not disclosed or suggested by the combination of Logston and Piskiel, and are not disclosed in combination with any other art of record, Applicants respectfully submit that a *prima facie* case of obviousness has not been presented. Accordingly, Applicants respectfully request that the rejection of Claims 17-18, 20-25, 27-28, 29, 30, 31, 36 and 37 under 35 U.S.C. § 103(a) be withdrawn.

For the reasons discussed above, no further issues are believed to be outstanding in the present application, and the present application is believed to be in condition for formal allowance. Therefore, a notice of allowance for Claims 1-37 is earnestly solicited.

Respectfully submitted,

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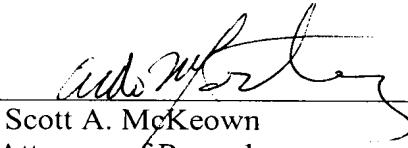
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